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**Testimony
Before Subcommittee on Regulatory Affairs
United States House of Representatives**

Hearing On Personal Watercraft Rules in the National Park System

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Good morning Chairman Miller and members of the Subcommittee. My name is Carl Schneebeck and I am the public lands campaign director for Bluewater Network, a division of Friends of the Earth. I am also testifying today on behalf of The Wilderness Society and the National Parks Conservation Association. I have also had the privilege of serving as a national park ranger at Grand Teton National Park in Wyoming for four years. The issue before you today – regulating personal watercraft use in the National Park System and more generally, managing for visitor safety and enjoyment in the parks while protecting natural resources, is one with which I have extensive experience as a ranger and a park advocate.

The national parks are intended to preserve the nation's treasures in perpetuity. This can only be accomplished by preserving and maintaining each park's special features and the ability of citizens to enjoy those features in a manner that National Park Service professionals judge will leave them unimpaired. When it created the National Park Service in 1916 with the Organic Act, Congress gave the agency a clear mission:

...to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.

Congress reaffirmed and further clarified the Park Service mission in the 1978 Redwood Act, stating:

...the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park system and shall not be exercised in derogation of the values and purposes for which these various areas have been established....

A fundamental purpose of parks also includes “enjoyment” of park resources. This enjoyment is meant broadly to include people who visit parks as well as those who derive benefit from simply knowing that our national parks exist. The courts have time and again interpreted the 1916 Organic Act as holding conservation of park resources preeminent over enjoyment of them; visitor use must not cause impairment of park resources and values.

Our national parks provide the opportunity for an incredible diversity of recreational and contemplative experiences for the more than 270 million people who visit them each year. National Park Service professionals are entrusted with making decisions that uphold the agency mandate by determining the health and future of individual park units and the system as a whole, including the type of experience that will ensure the safety and protection of visitors, natural resources including wildlife, and other park professionals.

In 2000, the National Park Service, in keeping with this clear mandate, finalized a regulation that prohibited personal watercraft use from all but 21 park units. In those park units, if personal watercraft use was to continue the agency would have to determine if jet skis conflict with the National Park Service mission, damage natural and cultural resources, threaten public safety, or impact wildlife. The rule provided a two-year grace period for those 21 park units to promulgate special regulations; otherwise bans would go into effect in 2002.

In August 2000, Bluewater Network filed suit against the Department of the Interior and the National Park Service challenging the provision of the rule that permitted parks to allow personal watercraft use without conducting an environmental assessment and a formal rulemaking. Through a settlement agreement, the National Park Service agreed that all parks would be required to conduct a rulemaking with an environmental assessment. Otherwise, beyond the grace period (extended for eight park units in the settlement agreement) identified in the final rule, personal watercraft use would be prohibited. In keeping with the agency mandate, the National Park Service recognized the impacts of personal watercraft and the need to regulate their use.

Most Americans are familiar with personal watercraft (PWC), commonly referred to by the trade name “jet ski.” By design, personal watercraft are fast, powerful machines marketed for speed, adrenaline and thrills. Advertisements for personal watercraft promote them as “high-performance musclecraft” built for “those always seeking the next greatest thrill.” Other messages from personal watercraft industry advertisements include:

- “You were once afraid of the water. My, how the tables have turned.”
- “It’s enough to make webbed toes curl.”
- “See those blurred colors streaming by you? That’s called scenery. Scenery is for saps.”
- “They have yet to invent a radar gun that can measure this.”
- “Hang on and keep telling yourself, ‘It’s just a leisure activity.’”
- “Next time you see ripples on the water, you’ll know why it’s trembling.”

There is nothing wrong with a thrill ride. But these thrills come at a high price to park resources and impair other visitors’ ability to safely enjoy national park areas, as evidenced by a number of studies and reports, including several conducted by the National Park Service itself.

A report at Delaware Water Gap National Recreation Area examined the noise impacts of personal watercraft and found that “despite the presence of traffic noise from U.S. 209 and other park roads and the presence of motorboats, including fishing and water-ski craft, it is the particular noise produced by PWC that are described as most annoying. The character of PWC noise differentiates it from the background drone of road traffic and from other motorboats used for touring, fishing or water skiing.” At Whiskeytown National Recreation Area, the National Park Service found that “PWC significantly distract from the enjoyment of Whiskeytown. Issues of noise, safety, and incompatible behavior are common and frequent complaints.” At Cape Hatteras National Seashore, the National Park Service acknowledged that personal watercraft degrade visitor experiences, reporting that prior to the PWC ban, the number one source of visitor complaints was the use of the craft.

At Assateague Island National Seashore, park rangers reported witnessing jet skis illegally harassing dolphin pods on “numerous” occasions, chasing the animals out of “productive feeding areas.” At Padre Island National Seashore the National Park Service states that personal watercraft “disturb important sea grass habitat and fish populations, move and alter recreational fishing patterns, reduce development of young marine life populations, and negatively impact reproductive activity and overall marine productivity by impacting habitat.” A report at Cape Canaveral National Seashore found that high speed jet ski use in shallow waters displaces wildlife from preferred habitats, disrupts foraging activities, and even results in direct mortality.

A study at Cape Cod National Seashore found that personal watercraft “adversely impact wildlife and aquatic vegetation” because the machines “have a shallow draft, which gives them the ability to penetrate areas that are not available to conventional motorized watercraft.” The report concluded that “PWC operation poses considerable threats to estuarine flora and fauna; pollutes waters essential to commercial and recreational shellfishing and recreational fishing in the park; poses unacceptable risk of injury to operators and bystanders; conflicts with the majority of other longstanding uses of the Seashore; and is an inappropriate use of the Seashore since PWC noise intrusion is inconsistent with the intent that the Seashore be a place of refuge from noisy urban environments.”

Even in park units where personal watercraft have been permitted by promulgation of special regulations, the National Park Service has distinguished PWC from other motorized craft and restricted the use of the machines. At Pictured Rocks National Lakeshore, PWC are restricted to a six mile section of the 40-mile long lakeshore and may launch only from one designated site. At Assateague Island National Seashore, personal watercraft are allowed at two access points on the island and prohibited on the majority of park waters. Personal watercraft are prohibited from the majority of park waters at Fire Island National Seashore. Bluewater Network maintains that personal watercraft are inappropriate in the National Park System and that only a complete ban is sufficiently consistent with the agency mandate to protect park resources and the ability

of visitors to safely enjoy them. While these parks did not choose to ban jetskis entirely, use of personal watercraft was restricted for many of the same reasons that other parks decided to ban the use, including resource protection and visitor safety and enjoyment issues.

Other state and federal agencies, organizations and Universities such as the Mote Marine Laboratory, the American Waterworks Association, the California Air Resources Board, the U.S. Fish and Wildlife Service, the Vermont Water Resources Board, the National Oceanic and Atmospheric Administration and the University of Florida, have also provided documentation of the distinct impacts caused by the use of jet skis on natural resources and the safety and enjoyment of other recreational users. A University of Florida study found that when compared with children injured in small motorboat accidents, those involved in jet ski accidents “tended to have more serious injuries and require operative intervention more frequently.” Personal watercraft account for roughly seven percent of all registered motorboats on the water, but according to 2004 U.S. Coast Guard statistics, jet skis are involved in approximately 25 percent of all reported accidents, and account for 28 percent of all reported injuries. Finally, personal watercraft pose significant enforcement problems, especially considering the lack of staff and funding resources that most park units face today. As a park ranger at Cape Lookout National Seashore observed in 2001, “many jurisdictions that have established rules are also unable to enforce them because they don’t have enough staff, training, or equipment. And without enforcement – without the ability to get in there and enforce the regulations, those rules are ineffective.” Personal watercraft are designed, marketed and used as thrillcraft and have proven damaging to air and water quality, visitor safety and enjoyment, natural soundscapes and wildlife and pose significant enforcement problems. It was for these reasons, in keeping with the agency mandate, that the National Park Service prohibited PWC in the majority of the National Park System.

The personal watercraft industry also recognizes the distinguishing impacts of these machines and the legal mandates that require the National Park Service to prohibit the craft in places such as Yosemite, Yellowstone and the Grand Canyon. An American

Watercraft Association representative provided testimony before the House National Parks Subcommittee in July of 2000 stating that motorized recreation such as personal watercraft is not appropriate for every unit of the National Park System. A former Personal Watercraft Industry Association (PWIA) executive director put it more concisely when she was quoted as saying that “personal watercraft should not be allowed in every park.” The March 21, 2000 final rule for personal watercraft use in the National Park System states, “PWIA also acknowledges that PWC use may be inappropriate in some areas of the National Park System.”

In all six of the park units where PWC studies are currently underway or have recently been completed (Gateway National Recreation Area, Cape Lookout National Seashore, Gulf Islands National Seashore, Big Thicket National Preserve, Curecanti National Recreation Area and Padre Island National Seashore), personal watercraft users comprised less than one percent of all visitors to these park units prior to the ban. At the same time, park visitation has either increased or remained steady at nearly all park units from which personal watercraft have been banned. Curecanti has seen its average annual visitation increase by 32 percent, Cape Lookout has experienced a 15 percent average annual visitation increase since the ban went into place, and Padre Island’s average annual visitation has increased 17 percent. Gulf Islands and Big Thicket experienced visitor increases after the ban until last year when both units sustained significant hurricane damage and visitation dropped dramatically.

Meanwhile, sales of personal watercraft have decreased significantly since a peak in popularity in 1995 when 200,000 units were sold. By 2004, sales had plummeted to 79,000 units. Deeming the market unviable, Arctic Cat and Polaris have discontinued production of personal watercraft. In a 2004 press release announcing this decision, Polaris cited a declining market, escalating costs and increasing competitive pressures as reasons for discontinuing PWC production. This downward trend began five years before the National Park Service promulgated rules to regulate jet skis. Considering the scant use that took place in these units prior to the ban, and the high number of more popular locations for PWC use adjacent to these park units, there is little evidence to suggest that

the ban had any influence on the popularity of PWC. Despite this trend, dealers appear to be adjusting to the changing market. A Florida PWC dealer testified before the House Subcommittee on National Parks last May that “when the impact of the ban [at Biscayne National Park] hit my business, I was fortunate enough to diversify and as a result, grow my business. Today, because we sell scooters, off-road vehicles, motorcycles, and larger boats, I am able to employ even more local residents than before.”

Any notion that the delayed rulemaking process is responsible for the downturn in popularity of personal watercraft is not substantiated by the facts. Currently, more than 97 percent of all inland waterways in the United States allow the use of personal watercraft. Nearly 99 percent of all U.S. ocean waters are open to jet ski use. A mere two percent of navigable waters in the U.S. are within National Park Service jurisdiction. Meanwhile, much of the press coverage of personal watercraft in the last ten years has concentrated on the abysmal safety record of the machines. There are plenty of places to ride personal watercraft, but the hard truth for the industry is that there is a declining interest in doing so.

On a side note, because this hearing is concentrating on the timing of regulations, it is important to note that at least three of the parks in question have been affected by the hurricanes that ravaged the Gulf Coast and Eastern Seaboard last summer, which has provided major management hurdles for these park units. As a result of damage from Hurricane Katrina, park employees at Gulf Islands have been scrambling to re-open the seashore despite minimal funding. As of February, only 20 percent of the seashore was open to the public. At Big Thicket National Preserve, Hurricane Rita destroyed park headquarters and employees have been working out of temporary trailers for the last several months. There has been little funding to repair park infrastructure, let alone complete day-to-day work. At Cape Lookout National Seashore, park staff reported that damage to infrastructure from Hurricane Ophelia closed the park and required significant staff time to repair. It seems reasonable that releasing rules governing personal watercraft use have not been a top priority for these park units.

It is critical that the National Park Service is given the latitude to conduct thorough and methodical rulemaking procedures at the park units in question. At a hearing before the House Subcommittee on National Parks last May, a representative from Yamaha called the full National Environmental Policy Act (NEPA) analysis a “costly, burdensome requirement.” While no irony is lost on the jet ski industry’s need for speed, it is not how hastily the National Park Service conducts these rulemakings that is vital to fulfilling its mandate, rather how thoroughly. In many of the studies conducted to date on personal watercraft use in the parks we have found several deficiencies including:

- failure to adequately monitor water quality at Lake Mead NRA
- exclusion of data on impacts to dolphins at Assateague Island NS
- a lack of information on how PWC affect other uses at Fire Island NS
- failure to consider the adverse economic impacts of PWC use at Pictured Rocks NL
- inconsistencies with visitor use data at Glen Canyon NRA
- inadequate assessment of safety threats posed to park visitors by PWC use at six park units

As these deficiencies demonstrate, when the National Park Service has been hasty in the rulemaking process details have been overlooked. Without a thorough analysis, the National Park Service runs the risk of allowing use that is damaging to park resources and hence in defiance of the clear agency mission. The National Park Service needs to take its time and ensure that the rulemaking process is thorough and in keeping with the mandates of the Organic Act.

Since its inception, the gold standard for the National Park Service has been to preserve and protect park resources. Preserving park resources is intrinsic to the “park service experience.” American and international citizens visit National Park System units to enjoy the scenery or cultural and historic values. The agency cannot compromise this expectation – it is mandated to actively protect natural resources for visitors to enjoy for generations to come. The agency must continue to conduct thorough studies and not be forced to view the NEPA process as a burdensome hoop to jump through as the industry does. A careful review of uses, recreational or otherwise, that have the potential to impair park resources should not be considered a burden. Visitors expect park units to be safe and protected when they visit them and this expectation should not be compromised.

Thank you